

AMENDMENT

#2

Kenneth, G. Gutterberg

OFFERED IN THE HOUSE  
TO: CSHB 3001(FIN)

Page 8, line 17:

Delete "AS 43.55.023(k)"

Insert "AS 43.55.023(l)"

Page 12, line 16:

Delete "A"

Insert "Except as provided in (k) of this section, a"

Page 15, line 26, following "section,":

Insert "and except as provided in (k) of this section,"

Page 16, following line 31:

Insert a new subsection to read:

"(k) A person engaged in the production of gas in the Point Thomson Unit may not take a credit under this section for a qualified capital expenditure upstream from the point of production of gas from the Point Thomson Unit for a gas processing plant or a gas treatment facility. In this subsection, "Point Thomson Unit" means the land identified by the Department of Natural Resources as the "Point Thomson Unit.""

Reletter the following subsection accordingly.

Page 32, line 29, following "AS 38.05.132":

Insert ";

(19) costs related to a gas processing plant or a gas treatment facility  
upstream from the point of production of gas from the Point Thomson Unit"

Page 33, following line 25:

Insert a new paragraph to read:

"(3) "Point Thomson Unit" means the land identified by the  
Department of Natural Resources as the "Point Thomson Unit";"

Renumber the following paragraph accordingly.

AMENDED DECISION

DENIAL OF THE PROPOSED PLANS FOR DEVELOPMENT OF THE  
POINT THOMSON UNIT

October 27, 2005

Findings and Decision of the Director, Division of Oil and Gas  
Under Delegation of Authority from the  
Commissioner, Department of Natural Resources, State Of Alaska

4. Environmental Costs and Benefits of the PTU Owners' Plans for Development of the PTU.

The PTU Owners do not propose any exploration, delineation, or development operations within the PTU. Therefore, the section 11 AAC 83.303(b)(1) environmental criteria neither supports nor condemns approval of the PTU Owners' plans for development of the PTU.

5. Other Relevant Factors to Protect the Public Interest

The PTU contains wells certified as capable of production in paying quantities. Considering the facts, it is now time to develop and produce the underlying hydrocarbons. If the PTU Owners have been unable to identify a commercial project in nearly 30 years, it is time to terminate the unit and re-offer the acreage to new lessees who will have the opportunity to develop the State's resources in a timely manner.

The Division has given the PTU Owners many opportunities over many years to develop the PTU. It is not in the public interest to grant a state lessee an indefinite extension on development merely because development in their view is not currently profitable enough or is too risky.

The intent of oil and gas leases is to give producers an opportunity to explore, develop, and produce within the primary term of the lease. That intent has been met and exceeded in this case. It is not in the public interest to change leasehold intent by allowing a lessee's parochial interests to supersede the State interest for orderly and reasonably prompt development.

The state's primary interest in oil and gas leases is development of hydrocarbons which yield oil and gas revenue. The state's interest is not met by allowing the producers to delay production until such time as the lessee determines that it is the lessee's optimum time to develop a known resource or the State agrees to compromise its tax and royalty system.

It is not fair to the public or other potential lessees to allow the current PTU Owners to continue to hold the leases, thereby precluding others from the opportunity to develop the resource.

**V. FINDINGS**

The PTU Owners' Plans for Development of the PTU fail to meet the criteria in 11 AAC 83.303(a) as follows.

**A. Promote the Conservation of All Natural Resources.**

If the Unit Operator proposed any operations under the 22<sup>nd</sup> POD, there would be environmental impacts associated with reservoir development. However, unitized development of the unit area would reduce the disruption of land and fish and wildlife habitat that would occur under individual lease development. This reduction in environmental impacts and preservation of subsistence access would, when taken in isolation, be in the public interest. While unitized operations conserve natural resources when compared to lease-by-lease development, development on a lease basis maybe preferable to no development at all. However, development of the Thomson Sand Reservoir is possible under a new unit agreement.

Additionally, before undertaking any specific operations, the unit operator must submit a unit plan of operations to the Division and other appropriate state and local agencies for review and approval, and the lessees may not commence exploration or development operations until all agencies have granted the required permits. The Division may condition its approval of a unit plan of operations and other permits on performance of mitigation measures in addition to those in the leases, if necessary or appropriate. Compliance with the mitigation measures would minimize, reduce or completely avoid adverse environmental impacts. Lease-by-lease operations would also require agency approvals, including mitigation measures.

**B. Promote the Prevention of Economic and Physical Waste.**

Exxon submitted geological, geophysical, and engineering data to support its interpretation of the hydrocarbon accumulations underlying the unit area. The available data indicates the PTU encompasses all or part of one or more hydrocarbon accumulations, but the PTU Owners' plans do not provide for delineation and timely development of those resources.

The PTU Owners stated that a gas cycling project was not commercially viable and the 22<sup>nd</sup> POD focuses on evaluating gas sales, but does not commit to produce and sell PTU gas. There is uncertainty regarding continuity of the reservoir in the western unit area, which could be addressed by drilling additional delineation wells. The Unit Operator has not adequately considered alternate development scenarios that incorporate both gas sales and gas cycling. Nor has Exxon evaluated the cumulative benefits of simultaneously developing the multiple hydrocarbon accumulations within the unit area. Timely development and production from the PTU does not preclude PTU gas sales at a later date. Focusing on gas sales at the exclusion of all other development options may result in waste of natural resources.

Gas cycling theoretically allows the recovery of significantly more liquids than would be recovered in a pure gas blow down project. In a gas blow down scenario, oil and gas condensates that remain in the field following gas sales may be largely unrecoverable. In addition, delaying timely production also constitutes waste. The Division and AOGCC must determine whether the proposed development will promote the conservation of oil and gas, but the Unit Operator has yet to apply to AOGCC for conservation orders and to the Division for approval of a depletion plan. The Director has the authority to modify the rate of development to achieve the conservation objectives under the PTU Agreement, and I find that increasing the rate of development in the PTU is necessary and advisable.

**C. Provide for the Protection of All Parties of Interest, Including the State**

A majority of the State's general fund revenue is derived from North Slope oil and gas operations in the form of royalty, net profit shares, production tax, property tax, and corporate income tax. Failure to develop and produce known hydrocarbon accumulations deprives the State of incremental revenue, economic activity and jobs. Should the PTU terminate, the area could be re-leased and unitized again under an acceptable unit plan of development that includes commitments to develop and produce the underlying hydrocarbon accumulations.

[Continuing this 30-year record of non-development and delay of an oil and gas lessee's obligations to develop and produce its oil and gas leases makes a mockery of the statutory,]

regulatory and contractual protections for the State as owner of the oil and gas estate. Therefore, the 22<sup>nd</sup> POD is unacceptable.

## VI. DECISION

The 22<sup>nd</sup> POD fails to meet the requirements of 11 AAC 83.303 and .343 because it does not provide for the reasonable delineation and timely development of the hydrocarbon accumulations in the unit area. Nearly 30 years ago, lessees discovered the Thomson Sand Reservoir underlying the PTU, which to date has not been developed or put into commercial production. The PTU contains significant gas condensate and oil resources. Eighteen wells have been drilled within and around the PTU, but the most recent PTU well was drilled by BPXA nearly 10 years ago. Although some of the leases are more than 40 years old, and several hydrocarbon accumulations within the unit area contain wells that are certified as capable of producing in paying quantities, the Unit Operator has not stated that production from the PTU is economic and has not committed to development and commercial production. To the contrary, the Unit Operator has stated the production from the unit is not economic.

1. The 22<sup>nd</sup> POD makes no commitment to timely develop and produce PTU oil, gas, or gas condensate. The 22<sup>nd</sup> POD is hereby denied.
2. Failure to obtain approval of the unit plan is grounds for default under the PTU Agreement and the State oil and gas regulations. The PTU Owners are hereby notified that effective October 1, 2005, the PTU Agreement is in default.
3. To cure the default, the Unit Operator shall submit an acceptable POD within 90 days, by Thursday, December 29, 2005.
  - a) An acceptable unit plan must contain specific commitments to timely delineate the hydrocarbon accumulations underlying the PTU and develop the unitized substances. The following commitments represent an example of an acceptable PTU plan of development:
    - Development activities for the unit, including plans and deadlines to delineate the Thomson Sand Reservoir, bring the reservoir into commercial production, maximize oil, condensate, and gas recovery, and maintain and enhance production once established; and plans for the exploration or delineation and production of other hydrocarbon accumulations and lands that lie stratigraphically above or below the Thomson Sand Reservoir;
    - The PTU Owners shall sanction a commercial PTU development project by October 1, 2006, and provide the Division with evidence of corporate approval and commitment of project funding.
    - The PTU Operator shall begin commercial production of unitized substances from the PTU by October 1, 2009.